

**BEFORE THE TENNESSEE REGULATORY AUTHORITY**

**NASHVILLE, TENNESSEE**

**March 16, 2004**

<b>IN RE:</b>	)	
	)	
<b>TENNESSEE-AMERICAN WATER COMPANY -</b>	)	<b>DOCKET NO.</b>
<b>APPROVAL OF SPECIAL CONTRACT WITH WALDEN'S</b>	)	<b>03-00452</b>
<b>RIDGE UTILITY DISTRICT</b>	)	

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**ORDER APPROVING SPECIAL CONTRACT**

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This matter came before Chairman Deborah Taylor Tate, Director Sara Kyle and Director Ron Jones of the Tennessee Regulatory Authority ("TRA" or "Authority"), the voting panel assigned to this docket, at a regularly scheduled Authority Conference held on October 21, 2003, for consideration of a petition filed by Tennessee-American Water Company ("Tennessee-American") seeking approval of an agreement for Tennessee-American to provide water for resale to Walden's Ridge Utility District ("Walden's Ridge").

**Background**

On July 24, 2003, Tennessee-American petitioned the Authority for approval of a Water Purchase Agreement ("Special Contract") with Walden's Ridge. This Special Contract was negotiated by the parties and submitted to the Authority for approval pursuant to Tenn. Comp. R. & Regs. 1220-4-1-.07, which states:

Special contracts between public utilities and certain customers prescribing and providing rates, services and practices not covered by or permitted in the general tariffs, schedules or rules filed by such utilities are subject to supervision, regulation and control by the Authority. A copy of such special agreements shall be filed, subject to review and approval.

No other interested party requested intervention in this matter.

## **Terms of the Special Contract**

The term of the Special Contract is for forty (40) years from the “date of service,” defined as the date that water is first taken from the Tennessee-American pipeline. As part of the agreement, Tennessee-American will construct a water supply pipeline and booster station from its existing distribution system to the Walden’s Ridge water tank at an estimated cost of \$2.4 million. If the construction bid price exceeds \$2.4 million by five percent (5%) or more, Tennessee-American has the right under the Special Contract to negotiate an adjustment in the price for the sale of water or terminate the contract.<sup>1</sup> In return, Tennessee-American will be the sole and exclusive provider of potable and raw water to Walden’s Ridge, and Walden’s Ridge will decommission and terminate its water supply and treatment facilities within ninety (90) days following the date of service.

The agreement provides for the sale of water by Tennessee-American to Walden’s Ridge at a rate of one dollar and twenty-five cents (\$1.25) per one thousand (1,000) gallons for the first three (3) years of the contract, plus a negotiable pass-through of any increased electric costs identified with the project. After the initial three-year period, if Tennessee-American proposes a rate change, Walden’s Ridge can agree to the new rate or propose an alternative rate with the understanding that the TRA will be the ultimate authority in determining the rate.

The agreement also stipulates that Tennessee-American can use Walden Ridge’s distribution system to resell (or “wheel”) water to other neighboring utilities. The resale (or “wheeling”) rate under the terms of the agreement will be thirty-nine cents (\$.39) per one thousand (1,000) gallons and will be fixed for the first three (3) years of the agreement. If any proposed change to the wheeling rate after the initial three-year period cannot be agreed upon by the parties, the contract

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<sup>1</sup> At the Authority Conference on October 21, 2003, Mr. Coleman Bush of Tennessee-American committed to the panel that if Tennessee-American petitions the TRA in future rate cases for a rate adjustment to permit full recovery of the \$2.4 million construction costs, the rate adjustment will apply only to Tennessee-American’s Walden’s Ridge customers and not to other customers of Tennessee-American. See *Transcript of Authority Conference*, pp. 44-45 (October 21, 2003).

requires mediation. If mediation is unsuccessful, pursuant to the contract either of the parties may take the matter to the TRA, the Utility Management Review Board or the courts <sup>2</sup>

### **Findings and Conclusions**

Based upon the terms of the Water Purchase Agreement previously set forth, the Authority finds the agreement justifies a departure from Tennessee-American's tariff through a special contract. The Special Contract will enable Tennessee-American to generate additional revenues that will help offset future rate increases for existing customers and benefit its ratepayers

### **October 21, 2003 Authority Conference**

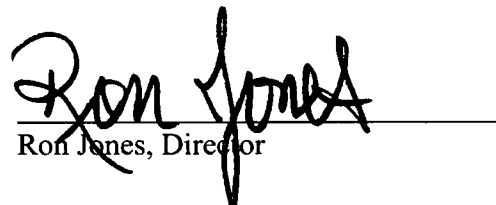
The Directors of this voting panel considered Tennessee-American's petition for approval of the Special Contract at the regularly scheduled Authority Conference held on October 21, 2003. During the Conference, the panel found that the Special Contract was in the public interest and after careful consideration voted unanimously to approve the petition.

### **IT IS THEREFORE ORDERED THAT:**

The Special Contract by and between Tennessee-American Water Company and Walden's Ridge Utility District is hereby approved.

  
Deborah Taylor Tate, Chairman

  
Sara Kyle, Director

  
Ron Jones, Director

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<sup>2</sup> This particular provision of the contract was discussed at the Authority Conference on October 21, 2003 by Mr. George Masterson of Tennessee-American Water, who told the voting panel the contract states that if the parties "can't agree after mediation, that either party can bring the matter to the TRA on the wheeling charge." *Transcript of Authority Conference*, p. 44 (October 21, 2003)